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To: microsoft.atr(a)usdoj.gov
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Subject: Microsoft Settlement

I would like to voice my objections to the proposed Microsoft Settlement, as proposed by the Department of Justice.

On the surface, this appears to be a valid settlement. As they say, though, the devil is in the details. The qualifiers that have been placed on the settlement would make it essentially useless in and of themselves, and make the settlement fatally flawed when combined with the lack of a valid dispute mechanism. It will not limit Microsoft's actions, it will not open Microsoft to competition, and it does not punish them; indeed, it makes their monopoly a defacto government-sanctioned one.

A single example of this is in section J1:

"No provision of this Final Judgment shall:

1.Require Microsoft to document, disclose or license to third parties:

a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of

which would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management,

encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement

criteria;

or (b) any API, interface or other information related to any Microsoft product if lawfully directed not to do so

by a governmental agency of competent jurisdiction."

The restrictions of (a) are such that Microsoft is not required to disclose anything that they do not wish to, just as the existing case is an outgrowth of poor grammar and definitions of the Consent Decree.

This particular section would, in fact, serve to maintain Microsoft's Operating System monopoly in and of itself. In modern

offices, the capability of sharing files is arguably the single most important use of servers. Microsoft Operating Systems use

a common protocol, called "SMB", for the file sharing, as does almost every other Operating System.

However, Microsoft

added an authentication system to their clients, so that their Operating Systems can only share files with servers running

Microsoft Server Operating System software, unless non-trivial changes are made to the configuration of the Operating

System of the client. This effectively prevents companies from moving to non-Microsoft Servers in their offices. Several of

the alternatives to Microsoft have requested information on the APIs and Authentication systems that Microsoft uses, and Microsoft has refused to provide the data in a useful manner. Under this settlement agreement, Microsoft would be specifically allowed to not provide the data necessary to open the server market up to non-Microsoft servers.

This specific example, and with the lack of a reasonable dispute mechanism whereby Microsoft's interpretation of the proposed settlement agreement can be over-ridden, combine to make the settlement effectively useless in terms of restricting, much less punishing, Microsoft's behavior.

The proposed settlement is far from being in the national interest, and rejection of it is amply supported by the trial record, the appeals court judgement, and the other comments submitted to the court.

Thank you,

Stephen Sinnott